



**CITY OF BURLINGTON
BOARD OF HEALTH**

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BOARD OF HEALTH

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**BOARD OF HEALTH REGULAR MEETING
MONDAY, JULY 7, 2008 AT 5:00 PM
DPW FRONT CONFERENCE ROOM, 645 PINE ST**

The meeting commenced at 5:00 p.m. on Monday, July 7, 2008 in the Conference Room of DPW, 645 Pine Street. Present were Chair Sousie, Members Crete, Galbraith, Hart and Vos, Health Officer Butler, and Staff Assistant Van Brunt. Others present: Donata Sikon-Amato, Case Manager of Code Enforcement; Matthew Perry and John Ryan, Code Enforcement Inspectors; Bill Niquette, Infill Development Services; Alice Beisiegel, Vermont Nursery and Landscape Association; Lea Terhune and Chuck Seleen of 22 Appletree Point Lane; Ward Four Counselor Russell Ellis; and Gene Bergman of the City Attorney's Office.

1. Confirmation of the Agenda

There were no changes to the agenda. Motion to accept agenda by Chair Sousie, seconded by Hart. Motion passed unanimously.

2. Acceptance of Minutes

Motion to accept minutes made by Chair Sousie. Minutes accepted by consensus. Motion passed unanimously. Chair Sousie reminded the Board that there will not be an August meeting.

3. Action: Final Review and Approval of Semi-Annual Report to City Council

Chair Sousie stated he sent copies of the report by mail to all members of the Board. Sousie recommended that members direct friends and others to the Board of Health website to view the reports if so desired. Chair Sousie then made a motion to approve the report for the next meeting. The motion was seconded by Hart and passed unanimously.

4. Hookah Rule

Chair Sousie began discussion with a quick update on the status of the Hookah Rule, stating that Gene Bergman had reviewed the Rule and found a couple points for which clarification is needed. Sousie stated that the first point for clarification is what the Board intends to require regarding the posting of a warning on the menu (food menu, tobacco menu) of the establishment. Discussion followed. After noting that the Board may not have intended to have the menu requirement included in the Hookah Rule to begin with, a

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motion was made by Chair Sousie to strike Item #5, which addressed the menu requirement, from the Hookah Rule. The motion was seconded by Hart and passed unanimously. Member Vos then suggested that a warning be put on any information sheet provided by the establishment to customers. After consulting Gene Bergman regarding legality of such a requirement, Member Vos made a motion to amend the Hookah Rule to require that a warning be included in any information provided by the establishment to the customer regarding hookah smoking. Motion seconded by Galbraith and passed unanimously.

Chair Sousie then stated that the second point for clarification was whether the Board wanted the warning posted both inside and outside the establishment. Member Vos stated that he recalled past discussion of posting the warning only in the smoking area itself. Vos then suggested that the warning also be posted on the inside of the main customer exit at the establishment. Motion made by Member Vos, as stated by Chair Sousie, to amend the Hookah Rule to reflect that in addition to posting a warning sign outside the establishment in the smoking area, a warning sign will also be posted visibly on the inside of a main customer exit. Seconded by Hart and passed unanimously. Motion by Chair Sousie to accept the amended Hookah Rule; seconded by Galbraith. Motion passed unanimously. Sousie then stated that the accepted Hookah Rule will go to the Health Commissioner next.

5. Public Forum

Chair Sousie invited members of the public to speak about any other matters of concern, asking those who wished to address issues regarding Item #6 on the agenda hold until the Board reached that item. Seeing none, Chair Sousie decided to strike Public Forum and bring to close.

6. Request for Health Order re: Unoccupied Appletree Point Lane

Chair Sousie opened Item #6 by offering ideas to help guide the process regarding the request for a Health Order. Sousie stated that the Board's procedure was to gather as much evidence and information as possible from those available at the meeting to provide it before entering into a decision-making process. Sousie also made it clear to all present that both the decision of whether or not to issue a Health Order and the amount of time required for deliberation were entirely at the discretion of the Board. Sousie also reminded all present that the Board's authority is limited to health issues only.

Chair Sousie then invited Lea Terhune and Chuck Seleen to address the Board. Lea Terhune of 22 Appletree Point Lane began by indicating appreciation for the Board's authority to take as much time as needed to deliberate the issue. Ms. Terhune stated she and Mr. Seleen have been very patient and understanding while working on the issues at the property in question for three summers, but that they feel the issue of the health and safety of the pool has not been resolved.

Ms. Terhune then provided background regarding health and safety issues with the pool, stating that there has been stagnant water in the pool consistently throughout the three summers (breeding ground for mosquitoes), and that a heavy black plastic cover has slid down into the pool over four summers. Ms. Terhune then stated that children sometimes climb over the fence surrounding the pool to catch frogs, pointing out that if a child slipped into the pool they could be caught under the heavy black plastic cover and drown. Ms. Terhune stated she first spoke to the property owners about the pool, but nothing was done. Terhune stated she then called Code Enforcement in spring/summer

2007 believing CE could sufficiently address the situation, but that the pool was not drained until the end of the summer in 2007. Ms. Terhune stated that she called Code Enforcement in March this year in anticipation of the spring/summer and mosquito season, hoping to get the pool drained and to get a more permanent solution to the problem. Ms. Terhune explained that she did not see that anything change at the property for one month after her first call in March 2008, so she called CE again and continued calling until the pool was finally drained a few weeks ago (but it was already past beginning of mosquito season). Ms. Terhune also stated that she believes using a sump pump periodically does not solve the problem as rain water accumulates in the pool. Ms. Terhune stated that she and Mr. Seleen decided to appeal after meeting with Gene Bergman and consulting the municipal code. At this point Ms. Terhune referred to and read out loud Section 8-61 of the municipal code which states that “no person in possession of land upon which a pool is or shall be situated shall fail to provide and maintain the equipment, fence or wall and facilities required herein.” Ms. Terhune stated she felt this was an excellent ordinance but felt it had not been sufficiently enforced. Ms. Terhune then addressed the issue of the Vacant Building Permit for the property in question, explaining that a maintenance plan implemented under the Vacant Building ordinance could have required the pool to be maintained properly. Ms. Terhune concluded by clearly stating that they are appealing to the Board of Health for a permanent solution to the pool issue.

Next Mr. Chuck Seleen of 22 Appletree Point Lane presented four clear points of concern regarding the abandoned pool at this property: 1) when the pool is full of water, mosquito larvae and mosquitoes become a health issue; 2) A person could fall into the pool and drown; 3) the black plastic cover partially covering the pool creates a greater safety hazard in terms of drowning; and 4) draining actually creates a new safety hazard as the pool then becomes a large, deep hole in the ground into which a person could fall and become injured. Mr. Seleen concluded by stating that he and Ms. Terhune are very concerned about this health hazard on their property line.

Following the conclusion of Mr. Seleen’s comments, Chair Sousie invited any others who wished to address the issue to come forward.

Russell Ellis came forward, stating that as a resident of Ward 4, he was pleased this issue was being addressed. Mr. Ellis stated he believes the abandoned pool is a danger to the community and to the children of the community and that he hopes something will be done about it.

Next Bill Niquette of Infill Development, owner of 2 Appletree Point Lane, thanked the Board for the opportunity to speak. Niquette stated he was present to answer any questions and that he did not wish to engage in any lengthy dispute. Niquette stated he and his business partner had complied with every request of Code Enforcement and that they the pool is surrounded by a fence, which meets security requirements of the City ordinance. Ultimately, Niquette clearly stated that he and his business partner are eager and willing to comply with all applicable codes and requests.

Chair Sousie invited any others who wished to speak to do so.

Health Officer and Code Enforcement Director Butler offered to provide a summary of events and actions taken regarding the pool at 2 Appletree Point Lane. Chair Sousie agreed and introduced Butler and accompanying Code Enforcement Inspectors Matthew Perry and John Ryan. After giving a background of issues surrounding the pool at the property, Butler stated that as Director of Code Enforcement, she believes the issue of the pool has been handled appropriately and according to requirements of the City ordinance.

Butler also pointed out that a permanent sump pump has been installed in the pool and as such, she believes the issue of water in the pool as been resolved.

At this point the Board asked questions. During questioning it was stated by Niquette that there are not any "No Trespassing" or warning signs posted at the property. When asked what was being done about children entering the property, Butler stated that neighbors are encouraged to call police if they see anyone on the property. Niquette stated that the fence surrounding the pool is four feet high, acknowledging that a person could climb over it, but pointing out that the pool is well concealed from public view. Niquette also stated that he would be willing to post warning signs if the Board so desired. In addition, the Board verified through questioning that the sump pump is continuously turned on and draining the pool of water that accumulates. Seleen stated that he and Terhune had not been informed of recent actions taken to resolve the issue and pointed out that it would be helpful for the complainant to be notified in a case like this.

Next Chair Sousie recommended the Board go into executive session to deliberate. Sousie offered opportunity for Terhune and Seleen to make final statements. Seleen stated that they had not been informed of recent actions taken to resolve the issue and pointed out that it would be helpful for the complainant to be notified about such actions so as to know where the issue stands.

Motion then made by Vos to go into executive session. Seconded by Crete. Motion passed unanimously.

-EXECUTIVE SESSION-

Return from executive session. Chair Sousie called meeting back to order.

Motion made by Hart that a public health hazard does not presently exist at the pool at 2 Appletree Point Lane because the pool is fenced and locked against casual entry and there is a working sump pump in place. Therefore no action by the Board is necessary at this time. Seconded by Galbraith. Motion passed unanimously.

7. Member Reports

Chair Sousie stated that the HIV/Aids program on Channel 17 was very well done. Vos praised Dr. Grace, the infectious disease chief at Fletcher Allen, for contribution to the program. Vos stated intention to put together a program to air on Channel 17 addressing lead abatement issues, one addressing domestic abuse, and possibly one on diabetes.

8. Chairman's Report

a) Discussion of Potential Grant Sources for Pesticide Education

I. Lake Champlain Basin Program

Chair Sousie stated he had communicated with the Lake Champlain Basin Program and that they stated they would be happy to work with the Board when a point is reached where EPA provides money to clean the lake. There will be money available for pesticide-related issues. Sousie stated the Board should keep in mind that at some point in the future when the Board looks into educating the public, the Lake Champlain Basin Program may have some money for the Board to use.

II. New England Grassroots Environmental Fund

Chair Sousie provided discs to each member of the Board to review from the

NALBOH website, and included a copy of the application information for the New England Grassroots Environmental Fund. Sousie stated he believed this information indicated that Burlington may be eligible to receive some funds from this source for something like a canvassing effort. Their purpose is to educate the public about environmental issues. They issue grants in September. Sousie would like a member or a couple members to consider putting together a grant application by that time (get the application online).

b) Distribution of Fluoride and Infants Pamphlet through VNA

Chair Sousie stated he brought copies of the Board's fluoride and infants pamphlet to the VNA office for their program for new parents to ask if they would include the pamphlet in their packet. VNA stated they would make the pamphlet available with other materials for new parents.

c) Education Materials for Board of Health members

Chair Sousie asked the Board to provide feedback in the future regarding the usefulness of the educational information found on the NALBOH discs. Sousie stated that if members found it helpful, he would consider using the NALBOH website as a reference for new Board members in the future.

9. Pesticide Ordinance Matters

Chair Sousie stated that Health Officer Butler need more time working on the draft of the Pesticide Ordinance before sending it to Bergman for the next step of the ordinance process. Sousie then mentioned that all members had received an email related to the TruGreen ChemLawn document regarding an application for permission to apply pesticides as discussed at the last meeting. Sousie stated that he had indicated in his email response to Bartlett of TruGreen ChemLawn that he was concerned with the short amount of time the Board had to review the document prior to this meeting. Sousie suggested the Board empower Butler and Sousie to review the ChemLawn documents and provide a response. Motion by Galbraith you to empower Health Officer Butler and Chair Sousie to review correspondence by Trugreen Chemlawn concerning the process the Board asked them to implement and to respond to Trugreen ChemLawn directly about going forward or not based on the review of the document. Motion seconded by Vos and passed unanimously.

Health Officer Butler proceeded to report pesticide related issues. Butler stated that she contacted the owner of a property where a pesticide application warning sign was improperly filled out and that she would follow up with the owner. Sousie requested that Butler also contact the complainant related to this issue. Butler agreed. Butler reported another application for permission to use pesticides in which seven different chemicals were listed. Butler stated she communicated that only one chemical was needed for the process and that the applicant was working on a new request. Lastly, Butler mentioned that she is receiving inquiries as to whether phosphorus containing fertilizer is regulated under the pesticide ordinance and that she continues to provide information on alternative fertilization methods.

10. Motion to adjourn by Chair Sousie. Unanimously passed. Meeting adjourned.